

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRE WALTON,

Plaintiff,

-against-

FORMER CHIEF JUDGE MICHAEL B.
MUKASEY,

Defendant.

20-CV-9710 (CM)

ORDER DIRECTING PRISONER
AUTHORIZATION

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff brings this action *pro se*. He indicates that he currently detained in a court-mandated drug treatment program on Wards Island and thus appears to be a “prisoner” for purposes of the *in forma pauperis* statute, 28 U.S.C. § 1915(h).¹ To proceed with a civil action in this Court, a prisoner must either pay \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee – or, to request permission to proceed without prepayment of fees, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915.

If the Court grants a prisoner’s IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner’s account. *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must therefore also authorize the Court to withdraw these payments from his account by

¹ For purposes of the IFP statute, a prisoner is defined as “any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or [a] diversionary program.” 28 U.S.C. § 1915(h); *Ruggiero v. County of Orange*, 467 F.3d 170, 174 75 (2d Cir. 2006) (term “prisoner” as used in the PLRA “includes within its ambit all facilities in which prisoners are held involuntarily as a result of violating the criminal law,” including drug treatment facility). If, at the time of filing the complaint, Plaintiff was not confined to a drug treatment program as a result of criminal charges and believes that he does not qualify as a “prisoner,” he should so indicate.

filing a “prisoner authorization,” which directs the facility where the prisoner is incarcerated to deduct the \$350.00 filing fee² from the prisoner’s account in installments and to send to this Court certified copies of the prisoner’s account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b).

Plaintiff submitted an IFP application but did not submit a prisoner authorization. Within thirty days of the date of this order, Plaintiff must either pay the \$402.00 in fees or complete and submit the attached prisoner authorization. If Plaintiff submits the prisoner authorization, it should be labeled with docket number 20-CV-9710 (CM).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk’s Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed without prejudice.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: January 6, 2021
New York, New York



COLLEEN McMAHON
Chief United States District Judge

² The \$52.00 administrative fee for filing a civil action does not apply to persons granted IFP status under 28 U.S.C. § 1915.